

ORDINANCE NO. 14839

FILE OF CITY COUNCIL

BILL NO. 98 - 2010

November 17, 2010

AN ORDINANCE

WHEREAS, the City of Allentown is a city of the third class operating under a Home Rule Charter form of governance authorized by the Home Rule and Optional Plans Law, 53 Pa.C.S.A. §2961 et seq.

WHEREAS, notwithstanding any provision to the contrary contained in the City's Home Rule Charter, as determined by the Commonwealth Court of Pennsylvania, the Home Rule and Optional Plans Law permits the City to increase its earned income tax.

WHEREAS, the Public Employee Retirement Study Commission, ("Commission") pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., a/k/a "Act 205" as amended by P.L. 396, No. 44 ("Act 44") has reviewed the aggregate public employee pension funding status for the City of Allentown; and

WHEREAS, the Commission has determined in accordance with Section 503 of the Act that the aggregate public employee pension funding status for the City of Allentown is at a Moderately Distressed, Recovery Level II; and

WHEREAS, Recovery Level II provides for certain remedies available to the City of Allentown pursuant to Sections 605 and 607 of the Act; and

WHEREAS, the remedies set forth in Section 607 are available to municipalities notwithstanding any provision of law, municipal charter, municipal ordinance, municipal resolution, or pension plan agreement, document or instrument to the contrary; and

WHEREAS, the City of Allentown elects to avail itself of the special municipal taxing authority remedy set forth in Section 607(f) of the Act, as well as the taxing authority granted to it by the Home Rule and Optional Plans Law, which permits the City of Allentown to increase the earned income tax above its maximum level; and

WHEREAS, the City of Allentown shall increase its earned income and net profits tax by three and one-half tenths of one-percent.

Amends Article 331 Earned Income Tax, Subsection 331.02

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

Section 331.02 IMPOSITION OF TAX is amended as follows:

331.02 IMPOSITION OF TAX

A tax for general revenue purposes and special municipal tax of ~~one percent~~ one and three and one-half tenths percent (1.35%) is imposed on the following:

A. Salaries, wages, commissions and other compensation earned on and after January 1, ~~1971~~, 2011 by individual residents of the City;

B. Salaries, wages, commissions and other compensation earned on and after January 1, ~~1971~~, 2011 by individual nonresidents of the City in the City;

C. Net profits, earned on and after January 1, ~~1971~~, 2011 by residents of the City;

D. Net profits, earned on and after January 1, ~~1971~~, 2011 in the City by nonresidents of the City.

The tax levied under subsections A and B herein shall total one and three and one-half tenths percent (1.35%) and shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by him. The tax levied under subsections C and D herein shall total one and three and one-half tenths percent (1.35%) and shall relate to and be imposed on the net profits of any business, profession or other activity carried on by any person or persons.

Every corporation which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania Corporate Net Income Tax, and every foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax, shall be exempt from the tax imposed by this article.

The tax levied by this article shall be applicable to salaries, wages, commissions and other compensation and to net profits earned in the period beginning January 1, 2011, and ending December 31, 2011 and for tax years thereafter with an effective date as provided by law.

(Amend as follows)

EDITOR'S NOTE: The Local Tax Enabling Act (Act 511, approved December 31, 1965, as amended) provides in Section 4 that every tax imposed under authority of the Act shall continue on either a calendar or fiscal year basis, without annual reenactment unless the rate of the tax is subsequently changed. Council by Ordinance 11855, passed December 15, 1970, and pursuant to Act 511, has enacted the earned income tax for the 1971 calendar year, to continue thereafter unless amended or repealed. Section 13 of Act 511 provides that the provisions of such section shall be included in or construed to be a part of each tax levied and assessed upon earned income by any city, and that the definitions contained in Section 13 shall be exclusive and not altered or changed by any city. Council by ordinance 14839, passed December 1, 2010 pursuant to Act 511, has enacted the earned income tax for the 2011 calendar year, to continue thereafter unless amended or repealed.

	Yea	Nay
W. Michael Donovan	X	
Jeanette Eichenwald	X	
Julio A. Guridy	X	
Ray O'Connell	X	
Michael Schlossberg		X
Peter G. Schweyer		X
Michael D'Amore, President		X
TOTAL	4	3

I hereby certify that the foregoing Ordinance was passed by City Council on December 1, 2010 and signed by the Mayor on December 1, 2010.


CITY CLERK